IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.457 OF 1991

The State of Maharashtra ...Appellant

vs.

Smt.Mathibai D. Phadke
(since deceased through L.R.)
1.Ambabai Ramchandra Phadke
2.Ram Ramchandra Phadke
3.Lalita Ramchandra Phadke ...Respondents

Ms Geeta Mulekar,A.G.P. for State
None for the Respondents.

CORAM: A.S.OKA,J.
DATE : JANUARY 11,2007.

ORAL JUDGMENT:

1. The submissions of the learned A.G.P. were heard Yesterday. The Appellant-State of Maharashtra has taken exception to the Judgment and Award dated 31st March 1990 passed by the learned Civil Judge Senior Division, Raigad in a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894). The land subject matter of the Appeal is an agricultural land situated at village Kamothe, Taluka Panvel District Raigad. A notification under section 4 of the said Act of 1894 was issued in respect of the said land on 3rd February 1970 by which the said land was notified for acquisition for development of city of Navi Mumbai. The Award under section 11 of the said Act of 1894 was made on 10th July 1985 by which the market value at the rate of Rs.3.50 per square meter was

offered to the Respondents. By the impugned Judgment and Award, the learned Judge has fixed the market value at the rate of Rs.10/- per sq.meter and has also awarded statutory benefits.

2. The learned A.G.P. submitted that the Respondents did not produce any sale instance of comparable lands. She submitted that the market value fixed by the Reference Court is exorbitant.

3. I have considered the submissions. I have perused the impugned Judgment and notes of evidence. A Division Bench of this Court in case of Nama Padu Hudar and others vs. State of Maharashtra (First Appeal No.754 of 1986 with other connected Appeals) dealt with the Appeals arising out Awards made under section 18 of the said Act of 1894 relating to the lands at village Kamothe and Panvel. The lands subject matter of the said group of Appeals were also notified by a notification under section 4 of the said Act of 1894 issued on 3rd February 1970 for the same public purpose of development of satellite city of Navi Mumbai. After considering the location of village Kamothe and all other relevant factors, the Division Bench divided the lands subject matter of the Appeals before it into five categories. The categories were fixed depending upon the distance of the lands from Bombay Pune highway, Gaothan of Kamothe and Zilla Parishad road. Even in case of

the lands which were situated at the distance upto 2200 meters from the highway, market value of Rs.20/- was fixed by the Division Bench. In the present case, evidence of Shri Manohar Vaidya (Exh.7) who was examined by the Respondent as an expert valuer discloses that the acquired land is situated at 500 meters from the Bombay Pune highway. There is hardly any cross examination on the said aspect.

4. The decision of this Court in case of Nama Padu Hudar (supra) has attained finality. For similarly situated land, the Division Bench granted the market value of Rs.23/- per sq.meter. In the present case, the market value of Rs.10/- per sq.meter has been awarded. As Award under section 11 of the said Act of 1894 has been made in the year 1985, there is no error in the grant of statutory benefits. There is no merit in the Appeal and the same is dismissed with no order as to costs.

JUDGE